

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

TRACY PETERS,)	
)	
Petitioner,)	
vs.)	2:10-cv-001-WTL-TAB
)	
HELEN MARBERRY,)	
)	
Respondent.)	

Entry Directing Further Proceedings

I.

The U.S. Marshals Service, District Court Judge William Griesbach and AUSA Timothy Funnel are hereby **stricken** as extraneous and improper respondents. The **docket** shall be updated to reflect **Helen Marberry** as the proper respondent.

II.

Petitioner Peters is confined within this District and seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241(c)(3). He challenges the validity of his conviction entered in the Eastern District of Wisconsin.

The petitioner may have an uphill path to travel in demonstrating that a remedy via § 2241(c)(3) should be available to him. And it is his burden to show that such a remedy is the proper one. *Jeffers v. Chandler*, 253 F.3d 827, 830 (5th Cir. 2001); *Charles v. Chandler*, 180 F.3d 753, 756 (6th Cir. 1999).

A writ of habeas corpus via § 2241 may be utilized by a federal prisoner to challenge the legality of his or her conviction or sentence in those cases where § 2255 is "inadequate or ineffective to test the legality of [the] detention." 28 U.S.C. § 2255(e). A remedy via § 2255 is "inadequate" when its provisions limiting multiple § 2255 motions prevent a prisoner from obtaining review of a legal theory that "establishes the petitioner's actual innocence." *Taylor v. Gilkey*, 314 F.3d 832, 835 (7th Cir. 2002).

On the basis of the foregoing, therefore, the petitioner shall have **through February 5, 2010**, in which to **show cause** why this action can proceed under § 2241 or why, in the alternative, it should not be transferred to the United States District Court for the Eastern District of Wisconsin

IT IS SO ORDERED.

Date: 01/07/2010



Hon. William T. Lawrence, Judge
United States District Court
Southern District of Indiana

Distribution:

Tracy Peters
No. 00562-089
Federal Correctional Institution
P.O. Box 33
Terre Haute, IN 47808